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HB 834 - Property

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PROPERTY

Landlord and Tenant: Amend Section 3 of Article 1 of Chapter 13 of Title 19, Section 23 of Article 1 of Chapter 7 of Title 44, and Section 33, 34, and 35 of Article 2 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, Relating to Filing of Petition Seeking Relief from Family Violence, Granting of Temporary Relief Ex Parte, Hearing, Dismissal of Petition Upon Failure to Hold Hearing, and Procedural Advice for Victims, and Landlord and Tenant, Respectively, so as to Clarify Matters Concerning the Effect of a Temporary Ex Parte Order and the Length of Time it is Effective; Provide for the Termination of a Residential Rental Agreement Under Circumstances Involving Family Violence; Provide for Definitions; Provide for Notice and Terms of Termination; Provide for Applicability; Revise the Procedures Between the Landlord and Tenant for the Listing of Damages Before and After a Tenancy; Clarify Provisions Relating to the Return of a Security Deposit and Actions Related Thereto; Provide for Related Matters; Repeal Conflicting Laws; And for Other Purposes

CODE SECTIONS:	O.C.G.A. § 19-13-3 (amended), §§ 44-7-23 (new), -33, -34, -35 (amended)
BILL NUMBER:	HB 834
ACT NUMBER:	482
GEORGIA LAWS:	2018 Ga. Laws 969
SUMMARY:	The Act allows a victim of domestic violence to terminate his or her residential rental agreement without an early termination penalty if the victim receives a court order related to that family violence.
EFFECTIVE DATE:	July 1, 2018

History

“All too often, victims of domestic violence are asked, ‘Why didn’t you leave?’ And often it is because they cannot afford to.”¹ In fact, this financial obstacle appeared in the very first case Greg Lockland reviewed in his job as a fatality review coordinator.² In that case, the domestic abuse victim had a particular concern before she was killed: She agonized over breaking her lease.³

Like those in other states, Georgia citizens frequently suffer acts of domestic violence. Although a significant portion of domestic violence goes unreported, law enforcement officers responded to 63,122 family violence incidents in Georgia in 2016,⁴ an average of approximately one every eight minutes. Georgia also had 149 deaths related to domestic violence in 2017.⁵ In 2016, Georgia courts entered 12,765 temporary family violence orders and 5,359 longer-term family violence orders.⁶

Places of residence play a significant role in Georgia’s domestic violence issue. Of the cases reviewed for the 2017 Georgia Domestic Violence Fatality Review Annual Report, 84% of the non-stalking domestic violence fatalities occurred at the home of either the victim or perpetrator.⁷ Further, 53% of those victims were either married or in a civil union with the perpetrator, and another 27% were in unmarried, long-term relationships with the perpetrator.⁸ However, despite the connection between domestic violence and residences and although over half of other states provide some protection for

1. Video Recording of House Proceedings at 2 hr., 5 min., 53 sec. (Feb. 28, 2018) (remarks by Rep. Scott Holcomb (D-81st)), https://www.youtube.com/watch?v=RtK8FGUzX90&feature=youtu.be&list=PLtmbuO1Wh9L62zpC8yJsEUHPT_IwNdAiA&t=7422 [<https://perma.cc/WNY-WF27>] [hereinafter House Proceedings Video].

2. *Id.*

3. *Id.*

4. GA. BUREAU OF INVESTIGATION, 2016 SUMMARY REPORT: UNIFORM CRIME REPORTING (UCR) PROGRAM 13, https://gbi.georgia.gov/sites/gbi.georgia.gov/files/related_files/site_page/2016%20Crime%20Statistics%20Summary%20Report_Revised.pdf [<https://perma.cc/BZ2E-7W79>].

5. GA. COMM’N ON FAMILY VIOLENCE & GA. COAL. AGAINST DOMESTIC VIOLENCE, GEORGIA DOMESTIC VIOLENCE: FATALITY REVIEW PROJECT 4 (2017) <http://georgiafatalityreview.com/reports/report/2017-report/> [<https://perma.cc/KN37-4R2H>].

6. *Id.* at 29.

7. *Id.* at 11.

8. *Id.* at 27.

domestic abuse victims related to rental agreements,⁹ Georgia has historically provided no such protection.

Legislation allowing a domestic abuse victim to break a lease without an early termination penalty first appeared during the 2017 legislative session.¹⁰ Representative Scott Holcomb (D-81st) filed that bill after reviewing similar laws in other states and recalling that the Georgia law allowed only reassigned active duty service members to break their lease without early termination penalties.¹¹ While serving as an Army officer, Representative Holcomb was allowed to break his lease when the Army changed his assignment from Fort Stewart to Fort McPherson.¹² Representative Holcomb felt strongly that domestic abuse victims should receive the same protection.¹³ Although Representative Holcomb's bill did not get very far, it did allow all realtors and apartment associations to provide feedback related to the bill, creating a bill supported by all relevant stakeholders.¹⁴

Bill Tracking of House Bill 834

Consideration and Passage by the House

Representatives Mandi Ballinger (R-23rd), Beth Beskin (R-54th), Shaw Blackmon (R-146th), Scott Hilton (R-95th), John Corbett (R-174th), and Katie Dempsey (R-13th) sponsored House Bill (HB) 834 in the House.¹⁵ The House read the bill for the first time on February 6, 2018, and the Speaker of the House, Representative David Ralston (R-7th), committed the bill to the House Judiciary Committee.¹⁶ The House read the bill for the second time on February 7, 2018.¹⁷ On February 22, 2018, the House Judiciary

9. Telephone Interview with Rep. Scott Holcomb (D-81st) at 3 min., 30 sec. (May 31, 2018) (on file with Georgia State University Law Review) [hereinafter Holcomb Interview].

10. HB 281, as introduced, 2017 Ga. Gen. Assemb.

11. O.C.G.A. § 44-7-22 (2018); Holcomb Interview, *supra* note 9, at 4 min., 17 sec.

12. Holcomb Interview, *supra* note 9, at 23 min., 41 sec.

13. *Id.* at 24 min., 13 sec.

14. *Id.* at 5 min., 38 sec.

15. HB 834, as introduced, 2018 Ga. Gen. Assemb.

16. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

17. *Id.*

Committee amended the bill in part and favorably reported the bill by Committee substitute.¹⁸

The Committee substitute, while keeping most of HB 834's language, amended the bill by wholesale adopting the language of two other proposed bills and adding other language.¹⁹ First, using the language from HB 883, the amendment included a new Section 1 in lines 13 through 32.²⁰ This language amended subsections (b) and (c) of Code section 19-13-3.²¹ The amendment added language to subsection (b) in lines 22 through 24, which provided that temporary protective orders protecting victims from family violence "shall remain in effect until the court issues an order dismissing such order or a hearing as set forth in subsection (c) of this Code section, whichever occurs first."²² In subsection (c), the amendment extended the time to hold a hearing after the filing of a petition from thirty to forty-five days.²³ Second, the Committee substitute modified HB 834's then-existing language to mirror the language of the Committee substitute to HB 745, which was Representative Scott Holcomb's (D-81st) proposed bill which would allow domestic abuse victims to break leases without early termination penalties.²⁴ Accordingly, tracking the language of HB 834 requires tracking the language of HB 745.

Representatives Holcomb, Ballinger, Mary Margaret Oliver (D-82nd), Richard Smith (R-134th), Trey Kelley (R-16th), and Robert Trammel (D-132nd) sponsored HB 745 in the House.²⁵ The House read HB 745 for the first time on January 25, 2018, and the bill was committed to the House Judiciary Committee.²⁶ The House read HB 745 for the second time on January 29, 2018.²⁷ On February

18. *Id.*

19. *See generally* HB 834 (HCS), 2018 Ga. Gen. Assemb.

20. HB 834 (HCS), § 1, pp. 1–2, ll. 13–32, 2018 Ga. Gen. Assemb.; HB 883, as introduced, § 1, pp. 1–2, ll. 9–28, 2018 Ga. Gen. Assemb.

21. *Id.* § 1, p. 1, ll. 13–16.

22. *Id.* § 1, p. 1, ll. 22–24.

23. *Id.* § 1, p. 2, ll. 26, 29, 31.

24. *Compare* HB 834 (HCS) §§ 3–4, pp. 3–5, ll. 76–138, 2018 Ga. Gen. Assemb., *with* HB 745 (HCS), § 2-3, pp. 2–4, ll. 52–114, 2018 Ga. Gen. Assemb.

25. Georgia General Assembly, HB 834, Bill Tracking, <http://www.legis.ga.gov/legislation/en-US/Display/20172018/HB/834> [<https://perma.cc/V9PU-KAU8>] [hereinafter HB 834 Bill Tracking].

26. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

27. *Id.*

15, 2018, the House Judiciary Committee amended HB 745 in part and favorably reported the bill by Committee substitute.²⁸

The Committee substitute for HB 745 modified the definition of civil family violence orders under subsection (a)(1) of the proposed new Code section by splitting such orders into two categories: (1) those in which “the respondent was present or had notice of the hearing that resulted in the issuance of such order” in lines 16 through 18 and (2) “ex parte temporary protective order[s].”²⁹ The Committee substitute required that ex parte temporary protective orders be “accompanied by a police report showing a basis for such order” in lines 19 through 21 in order to fit the statutory definition of civil family violence order and to provide notice to landlords under subsection (c).³⁰

The Committee substitute for HB 745 included the word “residential” in the descriptions of which rental or lease agreements tenants could terminate under subsection (b), and which real estate rental or lease agreements the Code section applied to under subsection (e).³¹ Additionally, the Committee substitute added “his or her minor child” to the parties whose protection under a family violence order would allow termination under subsections (b)(1) and (2).³²

The Committee substitute for HB 745 created two additional sections: one which modified subsections (b) and (c) of Code section 44-7-33 and one which modified subsection (a) of Code section 44-7-34.³³ The House read HB 834 for the third time on February 28, 2018.³⁴ The House passed the Committee substitute of HB 834 on February 28, 2018, by a vote of 166 to 0.³⁵

28. *Id.*

29. HB 745 (HCS), § 1, p. 1, ll. 16–18, 2018 Ga. Gen. Assemb.

30. *Id.* § 1, p. 1, ll. 19–21.

31. *Id.* § 1, p. 2, ll. 28, 38, 48.

32. *Id.* § 1, p. 2, ll. 31–32.

33. *Id.* § 2, pp. 2–4, ll. 52–114.

34. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

35. HB 834 Bill Tracking, *supra* note 25.

Consideration and Passage by the Senate

Senator Jesse Stone (R-23rd) sponsored HB 834 in the Senate.³⁶ The Senate first read HB 834 on March 1, 2018.³⁷ Lieutenant Governor Casey Cagle (R) assigned the bill to the Senate Committee on Economic Development and Tourism,³⁸ which made a number of amendments to the bill³⁹—many of which came directly from SB 443.⁴⁰

The Committee substitute for HB 834 added “before and after a tenancy” to the language related to the listing of damages to the bill’s preamble in lines 9 through 10; added “return of security deposit, grounds for retention of part, delivery of statement and sum due to tenant, unclaimed deposit, court determination of disposition and deposit, and remedies for landlord’s noncompliance with article, respectively” to Section 3’s preamble in lines 80 through 83; and added new language that modified Code section 44-7-33(a) by replacing “the” with “such” in reference to the list of existing damages in lines 88 and 91.⁴¹ The Committee substitute added language modifying Code section 44-7-33(b)(1) by adding “upon request” to the tenant’s right to inspect in line 98; adding “the premises” to what the tenant has the right to inspect in lines 98 through 99; removing “at the landlord’s discretion” from the tenant’s presence at the time of the inspection in line 102; and removing a modification to Code section 44-7-33(b)(2) by removing “not to exceed seven days” in line 111 as a limit on the reasonable time in which landlords shall inspect the premises after discovering it had been abandoned.⁴²

The Committee substitute added language modifying Code section 44-7-33(c), which provides the conditions in which a tenant has only a limited right to recover a security deposit, by including the condition that the tenant “is present for the inspection of the premises after vacancy and signs the landlord’s final damage list” and

36. *Id.*

37. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

38. *Id.*

39. *See generally* HB 834 (SCS), 2018 Ga. Gen. Assemb.

40. *See generally id.*

41. HB 834 (SCS), §§ 1, 3, pp. 1–3, ll. 9–10, 80–83, 88, 91, 2018 Ga. Gen. Assemb.

42. HB 834 (SCS), § 3, p. 4, ll. 98–99, 102, 111, 2018 Ga. Gen. Assemb.

removing the condition of “[failing] to sign a list” in lines 119 through 121.⁴³ The Committee substitute also added the following language:

A tenant who did not inspect the premises after vacancy or was not present for the landlord’s inspection of the premises after vacancy and, in either case, did not request a copy of the landlord’s final damage list shall have the right to dispute the damages assessed by the landlord.⁴⁴

The Committee substitute amended language modifying Code section 44-7-34(a) by replacing “[e]xcept as otherwise provided in the article, within one month” with “[w]ithin 30 days”; by replacing “the termination of the residential lease or the surrender and acceptance” with “obtaining possession”; by adding “as provided in subsection (b) of Code section 44-7-33”; and by removing “whichever occurs last”.⁴⁵ The Committee substitute also replaced “listing” with “identifying”; added “which shall include the comprehensive list of damages prepared as required by Code section 44-7-33”; removed “such damages shall be listed as provided in Code section 44-7-33”; and replaced “the” with “such” related to the statement of reasons the landlord retained the security deposit.⁴⁶ The Committee substitute also added language incorporating, but not modifying, Code section 44-7-34(b) and language modifying Code section 44-7-35.⁴⁷

The Senate read the bill for the third time on March 27, 2018.⁴⁸ Senators Blake Tillery (R-19th), Matt Brass (R-28th), Elena Parent (D-42nd), Jennifer Jordan (D-6th), William Ligon, Jr. (R-3rd), Greg Kirk (R-13th), John Kennedy (R-18th), Bill Cowser (R-46th), and Kay Kirkpatrick (R-32nd) offered a floor amendment that replaced the thirty day window referred to lines 27, 30, and 32 with forty-five days.⁴⁹ The floor amendment also added the following after line 33: “(d) If the Court finds a party is avoiding service to delay a hearing,

43. *Id.* § 3, p. 4, ll. 119–21.

44. *Id.* § 3, p. 4, ll. 124–27.

45. *Id.* § 3, p. 4, ll. 129–30, 131–32.

46. *Id.* § 3, p. 5, ll. 138, 139–40, 141–42, 144.

47. *Id.* § 3, pp. 5–6, ll. 154–58, 159–79.

48. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

49. HB 834 (SFA), 2018 Ga. Gen. Assemb.

the Court may delay dismissal of the petition for an additional 30 days.”⁵⁰

The Senate adopted the amendment and passed the Committee substitute of HB 834 on March 27, 2018 by a vote of 54 to 0.⁵¹ The Senate transmitted the bill to the House on February 28, 2018.⁵² The House agreed to the Senate’s version of the bill, as amended, on March 29, 2018, by a vote of 166 to 0.⁵³ The House sent the bill to Governor Nathan Deal (R) on April 5, 2018. Governor Deal signed the bill into law on April 8, 2018, and the bill became effective on July 1, 2018.⁵⁴

The Act

The Act amends the following portions of the Official Code of Georgia Annotated: Article I of Chapter 13 of Title 19, relating to the petition for relief from family violence and any related hearings; and Chapter 7 of Title 44, relating to landlord and tenant.⁵⁵ The overall purpose of the Act is to allow victims of family violence to terminate a lease without penalty when a family violence protective order has been issued.⁵⁶

Section 1

Section 1 of the Act amends subsection (b) of Code section 19-13-3, which provides that upon the filing of a verified petition supported by probable cause exists that family violence has occurred and may occur in the future, a court may issue a temporary relief ex parte order as it deems necessary to protect the petitioner.⁵⁷ The Act adds additional language providing that the ex parte order will remain in effect until the court issues another order dismissing the ex parte order or a hearing takes place in which the petitioner proves the

50. *Id.*

51. HB 834 Bill Tracking, *supra* note 25.

52. *Id.*

53. *Id.*

54. State of Georgia Final Composite Status Sheet, HB 834, May 10, 2018.

55. 2018 Ga. Laws 969, §§ 1–2, at 969–70.

56. 2018 Ga. Laws 969, § 2, at 970.

57. 2018 Ga. Laws 969, § 1, at 969.

allegations of family violence by a preponderance of the evidence, as set forth in subsection (c) of Code section 19-13-3.⁵⁸

Section 1 of the Act adds clarifying language to subsection (c) of Code section 19-13-3, which sets forth that within ten days of filing the petition, or as soon as practical thereafter, no later than thirty days after filing the petition, there must be a hearing in which the petitioner proves the allegations asserted in the petition.⁵⁹ The Act changes “in no case” to “not” later than thirty days and adds clarifying language to the last sentence of subsection (c), which provides that if a hearing is not held within thirty days “of the filing of the petition,” the petition stands dismissed.⁶⁰ Lastly, Section 1 of the Act adds subsection (d) to Code section 19-13-3, providing, “[i]f a Court finds a party is avoiding service to delay a hearing, the Court may delay dismissal of the petition for an additional 30 days.”⁶¹

Section 2

Section 2 of the Act adds a new Code section to Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to landlord and tenant.⁶² In subsection (a), the Act offers definitions for the following terms: “civil family violence order,” “criminal family violence order,” and “family violence.”⁶³ Subsection (b) operates to allow a tenant to terminate a residential lease agreement effective thirty days after providing the landlord with a written notice of termination when either a civil family violence order or a criminal family violence order is issued.⁶⁴ Subsection (c) requires that the notice to the landlord be accompanied by the protective order in addition to a police report when the protective order is an ex parte temporary order.⁶⁵

Subsection (d) allows the tenant to remain in the subject real estate until the termination is effective and requires the tenant to pay for all

58. *Id.*

59. *Id.* at 969–70.

60. *Id.* at 970.

61. *Id.*

62. 2018 Ga. Laws 969, § 2, at 970.

63. *Id.*

64. *Id.*

65. *Id.*

rent due for the duration of tenancy.⁶⁶ Subsection (d), however, specifically states that the tenant will not be liable for any fees, rent, or damages due to the early termination of the tenancy under the terms of this Code section.⁶⁷ Finally, subsection (d) provides that, notwithstanding any provisions to the contrary, if the tenant terminates the lease under this Code section fourteen or more days prior to occupancy, no damages or penalties can be charged.⁶⁸

Subsection (e) of Section 2 specifically provides that the Code section cannot be waived, despite any agreements of the parties to the contrary.⁶⁹ Furthermore, the provisions take effect for all residential lease agreements entered into after July 1, 2018, and for renewals, modifications, or extensions of agreements already in effect.⁷⁰

Section 3

Section 3 of the Act further amends Chapter 7 of Title 44 by revising Code sections 44-7-33 through 44-7-34, relating to landlord and tenant, and the return of any applicable security deposits upon the termination of a lease agreement.⁷¹ The Act divides subsection (b) of Code section 44-7-33 into subsections (b)(1) and (b)(2).⁷² Subsection (b)(1) provides that either a landlord or an agent must inspect the property within three business days after the tenant vacates. The revision offers more specificity in changing the language throughout from the “date of the termination of occupancy” to “termination of the residential lease and vacation of the premises or the surrender and acceptance of the premises.” Subsection (b)(1) also now requires that a tenant request the right to inspect the list of damages to the premises, and the premises itself, within five business days instead of the previous unconditional right.⁷³ Finally, subsection (b)(1) specifies that the signing of the list of damages by the landlord

66. *Id.*

67. *Id.*

68. 2018 Ga. Laws 969, § 2, at 971.

69. *Id.*

70. *Id.*

71. 2018 Ga. Laws 969, § 3, at 971. The revisions also change “he” to “he or she” and “his” to “his or her” throughout the affected Code sections. *Id.* Revisions to subsection (a) are not substantive in nature and merely offer clarifying language in respect to lists of damaged items.

72. *Id.* at 971–72.

73. *Id.* at 971.

and the tenant shall serve as evidence of the list's accuracy only when the tenant is present with the landlord at the time of inspection.⁷⁴

Subsection (b)(2) of Code section 44-7-33 makes the landlord's duty to inspect the premises mandatory instead of optional.⁷⁵ The Act requires the compilation of a comprehensive list of damages and corresponding dollar amounts, which will serve as the basis for retaining the tenant's security deposit when the tenant vacates the premises without notifying the landlord.⁷⁶

The Act amends subsection (c) to conform with the requirement that the tenant be present with the landlord during the final inspection for the tenant's signature on the list of damages to serve as his or her assent to those damages, thereby preventing the tenant from later objecting.⁷⁷ The Act adds language to subsection (c) which clarifies that if a tenant did not inspect the premises after vacancy, or was not present for the landlord's inspection, and did not request a copy of the landlord's final damage list, the tenant shall have the right to dispute any damages.⁷⁸

The Act amends subsection (a) of Code section 44-7-34 by requiring the landlord to furnish to the tenant the comprehensive list of damages now required by Code section 44-7-33 when retaining any part of the tenant's security deposit.⁷⁹ The Act also amends subsection (a) by changing the time frame in which the landlord must return the security deposit from one month to thirty days, and clarifies that the thirty days begins on the day the landlord obtains possession of the premises.⁸⁰

Section 3 of the Act amends Code section 44-7-35 by dividing subsection (a) into three subparts.⁸¹ The substantive addition appears in subpart (3), as part of the new requirement that landlords compile a final damages list, as required by subsection (b) of Code section

74. *Id.*

75. 2018 Ga. Laws 969, § 3, at 971–72.

76. *Id.* at 971. Subsection (b)(1) also offers clarifying language, changing “terminates occupancy” to “vacates or surrenders the premises.” *Id.*

77. *Id.* at 972.

78. *Id.*

79. *Id.*

80. 2018 Ga. Laws 969, § 3, at 972.

81. *Id.* at 973.

44-7-33.⁸² Subsection (a)(3) adds that the landlord shall not be entitled to retain any portion of the security deposit if this final damages list is not compiled and made available to the tenant.⁸³

Analysis

The Expansion of Domestic Abuse Protections in Georgia

The Act serves a critical function in expanding protections for domestic abuse victims by allowing those victims to terminate their leases and relocate. Previously, Georgia was one of thirty-seven states that permitted the courts to exclude a domestic violence abuser from a residence and grant sole possession to the survivor.⁸⁴ Alternatively, under Georgia law an abuser may be required to assist in providing alternative housing arrangements for the survivor in certain situations.⁸⁵ However, in returning to the previously cohabited residence or one an abuser assisted in obtaining, a survivor is left vulnerable simply because the abuser has knowledge of survivor's whereabouts when at home.⁸⁶ In essence, the inability to relocate anonymously due to penalties for early termination of a lease puts survivors in grave danger.

While eighteen states have laws permitting survivors to change the locks on a residence, the overwhelming majority of states have enacted laws that go a step further and allow for the anonymity of survivors through confidentiality of housing records, voter registration, or address confidentiality programs.⁸⁷ Previously lacking any housing laws that would specifically protect the residential anonymity of survivors, Georgia now joins twenty-seven other states

82. *Id.* The Act made non-substantive additions, specifically updating the language with the new Code sections. *Id.*

83. *Id.*

84. Letter from Karlo Ng to Advocates (Dec. 2016) in NAT'L HOUS. LAW PROJECT, HOUSING RIGHTS OF DOMESTIC VIOLENCE SURVIVORS: A STATE AND LOCAL LAW COMPENDIUM (2016) [hereinafter Letter from Karlo Ng].

85. O.C.G.A. §19-13-4 (2018); NAT'L HOUS. LAW PROJECT, HOUSING RIGHTS OF DOMESTIC VIOLENCE SURVIVORS: A STATE AND LOCAL LAW COMPENDIUM 80 (2016).

86. Video Recording of House Judiciary Committee Meeting at 27 min., 5 sec. (Feb. 15, 2018) (remarks by Chairman Wendell Willard (R-51st)), <https://livestream.com/accounts/19771794/events/7993570/videos/170289493> [<https://perma.cc/45CJ-7NL6>] [hereinafter House Judiciary Committee Meeting Video].

87. See Letter from Karlo Ng, *supra* note 84.

with early lease termination laws that will, at a minimum, allow survivors to relocate without facing the additional financial burden of early lease termination penalties.⁸⁸ The Act sets forth a significant change in Georgia law by allowing survivors to “retreat from the situation and find shelter in a location without that initial financial burden.”⁸⁹ The Act provides survivors an opportunity to avoid the dilemma between personal or financial safety.

Preventing Abuse of Early Lease Termination

In evaluating the potential harm to landlords, Georgia legislators looked to already-enacted provisions that allow for active military to terminate residential leases without penalty for guidance.⁹⁰ In proposing legislation, Representative Scott Holcomb (D-81st) looked to these provisions as precedent.⁹¹ The distinction between the two situations, however, lies in the advance notice provided to landlords when contracting with active military—a notice that landlords do not receive when contracting with those who are or become domestic abuse survivors.⁹² Despite this lack of precontractual notice, the lease termination’s thirty-day notice requirement offers a safeguard in providing landlords with the notice required to mitigate losses and secure future tenants prior to any loss in future rents.⁹³ In this sense, the only thing being waived is the early termination penalty, and landlords may, in many circumstances, not be harmed if they are able to secure another tenant.⁹⁴

Representative Holcomb, moved by the heart-wrenching stories he had encountered, first proposed new legislation in 2017 to protect domestic abuse victims.⁹⁵ Painting with broad strokes, the unsuccessful proposed legislation was largely meant to start discussions with the housing industry to mold future legislation that

88. See 2018 Ga. Laws 969, § 1, at 969; Letter from Karlo Ng, *supra* note 84.

89. House Judiciary Committee Meeting Video, *supra* note 86, at 27 min., 28 sec. (remarks by Rep. Andrew J. Welch (R-110th)).

90. *Id.* at 32 min., 3 sec. (remarks by Chairman Wendell Willard (R-51st)).

91. See Holcomb Interview, *supra* note 9, at 3 min., 30 sec.

92. House Judiciary Committee Meeting Video, *supra* note 86.

93. *Id.* at 33 min., 46 sec. (remarks by Rep. Scott Holcomb (D-81st)).

94. *Id.*

95. Video Recording of House Proceedings, *supra* note 1; see also HB 281, as introduced, 2017 Ga. Gen. Assemb.

would ultimately serve the interests of everyone involved.⁹⁶ To combat the perception that victims of domestic abuse may be guilty of false reporting, Representative Holcomb contacted legislators from several other states with similar legislation to determine whether those states experienced abuse of the early lease termination protections.⁹⁷ Abuse of these protections had not been an issue in the states contacted, perhaps in large part due to the underreporting of domestic abuse.⁹⁸ In fact, domestic violence is a global public health concern that affects approximately one in four women in Western countries, with only about 15% of those women actually reporting abuse.⁹⁹

Despite the chronic underreporting of abuse, Georgia's domestic abuse survivors attempting to terminate a lease face one of the most burdensome (but also most common) processes in the country. Survivors cannot terminate a lease without a court order and cannot obtain an order without either (1) providing the abuser notice of the hearing or (2) filing a police report detailing the abuse and providing the court with that report.¹⁰⁰ The Georgia Apartment Association would not support the bill without these means of deterring individuals from abusing the protection provided by making false reports.¹⁰¹ Representative Holcomb points out that in attempting to obtain a court order just for the purposes of escaping a lease and not an abusive family member or partner, an individual would need to risk perjuring themselves.¹⁰² Thus, the Act attempts to strike a balance in protecting the rights of survivors and landlords alike.

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96. Holcomb Interview, *supra* note 9, at 6 min., 11 sec.

97. *Id.* at 9 min., 54 sec.

98. *Id.* at 11 min., 10 sec.

99. Enrique Gracia, *Unreported Cases of Domestic Violence Against Women: Towards an Epidemiology of Social Silence, Tolerance, and Inhibition*, 58 J. EPIDEMIOLOGY & COMMUNITY HEALTH 536, 536 (2004).

100. Holcomb Interview, *supra* note 9, at 8 min., 30 sec.

101. *Id.* at 8 min., 39 sec.

102. *Id.* at 9 min., 22 sec.